

Approved as Submitted: December 14, 2005

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – DECEMBER 7, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk/Deputy Agency Secretary Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

Mayor/Chairman Kennedy announced that the Closed Session was not held.

SILENT INVOCATION

Mayor/Chairman Kennedy asked all to recall that this is a day to remember the attack on Pearl Harbor, and also encouraged them to remember the service men and women who are currently fighting throughout the world to protect freedom.

PLEDGE OF ALLEGIANCE

Mayor/Chairman Kennedy led the Pledge of Allegiance.

COMMENDATIONS

Mayor Kennedy presented a summary of the events that occurred on September 15, 2005 in the apprehension of a murder suspect by Morgan Hill Police, for which the following Commendations were given to Police personnel.

Mayor Kennedy and Police Chief Cumming presented Commendations to the following Police personnel for their outstanding service in the apprehension of a murder suspect on September 15, 2005:

Officer Kyle Christensen, Officer Bill Norman, Officer Rodney Krewson, Dispatcher Lynette Madruga, Dispatcher Sarah Savage, Corporal Michael Brookman (Dispatch), MSO Nate Mazon, Sergeant Dave Myers, Sergeant Rick Rodriguez, Sergeant Mark Brazeal, Sergeant Jerry Neumayer, Corporal Troy Hoefling, Corporal Dave Leonard, Corporal Shane Palsgrove, Officer Max Cervantez, Officer Mindy Zen.

INTRODUCTIONS

Interim Recreation and Community Services Manager Rod Cooper introduced Community and Cultural Center Event Coordinator Debbie Lazzarino.

CITY COUNCIL REPORT

Mayor Pro Tempore Tate reported on his coordinating work with the Youth Advisory Committee (YAC). There are currently 18 who serve in various capacities on the YAC, and one of the projects they are currently working on is the adoption of the skate board park to make sure it is kept available for the use of Morgan Hill youth. They have planned a fund raising event to occur on Friday night, December 9, which will be an indoor band concert at the Community and Cultural Center. He invited any adults who would be interested in chaperoning the event to contact the Recreation Department staff.

Also, on April 9, 2006 the Morgan Hill YAC and the Gilroy YAC are planning a “Senior Ball” for senior citizens from both communities. They are in the process of planning this event and are seeking sponsors. This “Swing Into Spring” will be a multi-generational event. He stated that he is very proud of the youth and takes great pleasure in working with them.

CITY MANAGER REPORT

No report.

CITY ATTORNEY REPORT

No report.

OTHER REPORTS

None.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening’s agenda.

Mr. Carlo Golino addressed the Council regarding the Brownfield Grant Application for former Castle VegTech Inc. site at 16470 and 16495 Vineyard Blvd. He stated that he was present tonight to answer any technical questions that the staff may have of him regarding this application.

City Manager Tewes clarified that a private group has applied for this grant from the EPA to clean up this site, and that the City has advised that this is an appropriate action to take.

Chamber of Commerce President Dan Ehrler addressed the Council regarding the article that appeared in Saturday's Morgan Hill Times about the Chamber of Commerce. He stated that the Chamber recognizes the need for accountability, and will be providing information that has been requested on the Economic Development partnership with the City in their Second Quarter Report in January. He has already made appointments with the City Manager and Business Assistance and Housing to discuss the format, and wanted to make sure the Council and the public were informed that the Chamber is moving forward in providing this information.

Council Member Sellers suggested that any questions that the Council had for the Chamber be submitted in advance to make the process more efficient by allowing them to come to the meeting prepared to provide the answers.

No further public comments were offered, and the Mayor closed the public comment.

City Council Action

CONSENT CALENDAR:

Item 10 was pulled from the Consent Calendar for Council discussion and roll call vote.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-9 and 11- 14, as follows:*

1. **REQUEST FOR BANKING SERVICES**

Action: 1) **Awarded** Contract for Banking Services to Bank of the West; and 2) **Authorized** the City Manager to Execute a Contract with Bank of the West for Banking Services for Three Years, with an Option to Renew for Three Additional Years; Subject to Review and Approval by the City Attorney.

2. **APPROVE FILING GRANT APPLICATION FOR COMMUNITY PARK BASKETBALL COURT AND WATER CONSERVATION MEASURES (Resolution 5962)**

Action: **Adopted** Resolution Approving the Filing of an Application for Grant Funds for the Roberti-Z'Berg-Harris Block Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002.

3. **ACCEPTANCE OF TRAFFIC SIGNAL INSTALLATION AT TENNANT/HIGHWAY 101 SOUTHBOUND RAMPS PROJECT**
*Action: 1) **Accepted** as Complete the Traffic Signal Installation at Tennant Avenue and Highway 101 Southbound Ramps Project in the Final Amount of \$501,491; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.*
4. **COURTHOUSE GARDEN CONCEPTUAL DESIGN**
*Action: **Appropriated** \$10,600 from the Unappropriated Fund Balance in Water System Replacement Fund (653) for the Demonstration Water Conservation Garden Project, CIP #126005.*
5. **CONSULTANT AGREEMENT WITH NAFFA INTERNATIONAL, INC. FOR OUTSIDE PLAN REVIEW SERVICES**
*Action: **Authorized** the City Manager to Execute a Contract in the Amount of \$75,000; Subject to Review and Approval by the City Attorney.*
6. **PURCHASE OF THE POLICE COMMUNICATIONS' DISPATCH VOICE LOGGING SYSTEM**
*Action: **Filed** Report on the Emergency Purchase of a Communications' Dispatch Voice Logging System from Capture Technologies for \$10,605.89.*
7. **GENERAL FUND RESERVE POLICY**
*Action: **Directed** Financial Policy Committee Recommendations Concerning General Fund Reserve Policy to City Council for Consideration at the January 2006 Retreat.*
8. **AMENDED REIMBURSEMENT AGREEMENT WITH PRAVIN PATEL FOR 16995 CONDIT ROAD**
*Action: 1) **Approved** an Appropriation of \$4,549 from the Current Year Unappropriated Measure C – Capital Improvement Project Fund Balance for Reimbursements for Extra Work along the Southeast Frontage of 16995 Condit Road; and 2) **Authorized** the City Manager to Execute the Amended Reimbursement Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney.*
9. **FINAL MAP FOR JASPER PARK PHASE I (TRACT 9732)**
*Action: 1) **Approved** the Final Map, Subdivision Agreement and Improvement plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; 3) **Authorized** the City Clerk to Sign the Final Map Authorizing Abandonment of Unused Easement; and 4) **Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.*

10. RESOLUTION OF INTENTION AND INTRODUCTION OF ORDINANCE APPROVING AMENDMENT TO CONTRACT WITH CalPERS (Resolution 5963, and ORD 1748, N.S.)

City Manager Tewes stated that this item is part of a series of actions related to the Memorandum of Understanding approved by the Council, and that this item should be opened to receive any public comment.

Mayor Kennedy opened the public comment on Item 10. No comments were offered by the public, and the public comment was closed.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 10, as follows:*

- 1) **Adopted** Resolution Approving Amendment to Contract with CalPERS;*
- 2) **Authorized** the Mayor to Execute the Amendment to Contract Following Final Approval of the Ordinance*

Deputy City Clerk Malone read the ordinance title introducing the ordinance and to took a roll call vote of the Council.

Action: *Council unanimously (5-0) **Waived** the Reading, and **Introduced** the Ordinance, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF MORGAN HILL AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE 2.5% AT 55 RETIREMENT BENEFIT FOR MISCELLANEOUS EMPLOYEES.*

11. ADOPT ORDINANCE NO. 1745, NEW SERIES

Action: ***Waived** the Reading, and **Adopted** Ordinance No. 1745, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1725 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR TILTON-GLENROCK, TO ALLOW FOR A 7-MONTH EXTENSION OF THE FINAL MAP SUBMITTAL DATE AND BUILDING PERMIT SUBMITTAL DATE, AND AN 8-MONTH EXTENSION for OBTAINING the BUILDING PERMIT DATE FOR 34 BUILDING ALLOCATIONS GRANTED FOR FISCAL YEAR 2005-2006 FOR MP-02-03: Tilton-Glenrock.*

12. ADOPT ORDINANCE NO. 1746, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1746, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A PLANNED UNIT DEVELOPMENT FOR A 66.49-ACRE AREA LOCATED AT THE NORTHEAST QUADRANT OF COCHRANE ROAD AND HIGHWAY 101 (APNs 728-37-001, -002, -004, -005 & -007) (ZA-04-12: COCHRANE – DINAPOLI/BROWMAN).

13. ADOPT ORDINANCE NO. 1747, NEW SERIES

Action: Waived the Reading, and Adopted Ordinance No. 1747, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MORGAN HILL AND MORGAN HILL RETAIL VENTURE, LIMITED PARTNERSHIP, FOR CERTAIN REAL PROPERTY CONSISTING OF APPROXIMATELY 66.5 ACRES LOCATED IN THE CITY OF MORGAN HILL AT THE NORTHEAST QUADRANT OF COCHRANE ROAD AND HIGHWAY 101 (DA-05-11: Cochrane-DiNapoli-Browman).

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) Approved Consent Calendar Item 14, as follows:*

14. APPROVE JOINT CITY COUNCIL REGULAR AND REDEVELOPMENT AGENCY SPECIAL MEETING MINUTES OF NOVEMBER 16, 2005

Action: Approved as Submitted.

City Council Action

PUBLIC HEARINGS:

15. DOWNTOWN ADMINISTRATIVE USE PERMIT FEE AND RESIDENTIAL PRIVATE LIVESTOCK PERMIT FEE (Resolution 5964)

Director of Community Development Molloy Previsich presented the staff report as provided in the agenda packet, explaining that these are new types of permits and the recommendations are based on

staff analysis of the time and costs involved to cover the permit processing. If approved, this resolution will take effect 60 days after adoption.

Mayor Kennedy opened the public hearing.

No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member and seconded by Council Member, the City Council unanimously (5-0) **Adopted** Resolution Establishing a new Downtown Administrative Use Permit Fee and Residential Private Livestock Permit Fee, Effective February 6, 2006.*

City Council Action

OTHER BUSINESS:

16. DISCUSS DOWNTOWN HOUSING AND MIXED USE DEVELOPMENT PROJECTS IN RELATION TO MEASURE C, AND PROVIDE DIRECTION REGARDING ADVANCING RESIDENTIAL BUILDING ALLOCATIONS FROM 2009-2010 AS NEEDED TO COMPLETE PROJECTS

Director of Community Development Molloy Previsich presented the staff report as provided in the agenda packet. She reported that this request is being made to address some of the difficulties that such projects need to overcome due to the type of construction involved. One result of transfer of the 18 units would be to eliminate the need to hold a competition next year. Another consideration is the effect this would have on the allotments available for other areas of the city, so it is recommended that the Community and Economic Development Committee be directed to study the impacts of this proposal and to investigate the possibility of a ballot measure to amend Measure C in relation to this type of downtown project.

Mayor Kennedy opened the public comment.

Ralph Lyle, speaking as a citizen and not as a Planning Commissioner, stated his objection to the use of the word “advance” of allotments because it goes against the RDCS measures adopted in the past. He prefers the term “set aside” instead. He also stated that if the decision is made to try for a ballot measure, that there would be plenty of time to allocate at that time, but does not feel it is a good idea to do this now. If the initiative passes, nothing is lost because those projects can be started in 2008-09. He stated that he feels these allotments should be kept at a level that allows the rest of the community to receive a fair allotment. He also stated an objection to giving an allocation to all projects that receive a passing score. He volunteered to serve on any committee formed to work on a ballot measure.

Gary Walton stated that the downtown density needs to be increased to contribute to the viability of the downtown and the tax base. This type of development does not require any added costs for streets, sewer or police and fire, and this makes it very smart growth. The 300 units proposed are still not

enough density for downtown, though it is a good start. Smart growth like this should be rewarded, and the current growth control is not working in the downtown area. He stated his support for putting something on the ballot to take care of this issue.

Maureen Upton questioned if all these units are approved and completed, whether they can be absorbed without creating a glut of vacant units. She suggested it would be better to give only the best projects an allocation and see what happens after they are built. It would be better to contain construction areas to prevent all of downtown being disrupted. She also stated that the withdrawal of these allotments would hurt development in other areas of the city which could cause a financial crisis. She feels it would be better to use a ballot measure to set up an allocation for the downtown area so that allocations to other parts of the city are not hurt.

Rocke Garcia stated his support for this proposal because he feels it will be rewarding for the downtown and the entire city. This is the first competition that has addressed the downtown area, and it has been a very difficult process for both developers and staff. He noted that most of the downtown projects will have a mix of only 1, 2, and 3 bedroom units; whereas, outside of downtown area most are large homes.

Dan Ehrler of the Chamber of Commerce supports vitality and economic development in the downtown area where people want to live and shop. He is most specifically concerned with competition outside of the downtown. He reported that Gilroy is including similar types of housing opportunities in their plans, and to wait too long to get something in process in Morgan Hill will be counterproductive to Morgan Hill's interests. The earlier, the better for bringing housing to the downtown area.

Dan Craig stated his support of the smart growth model of building in downtown, and feels that there is a clear understanding of the type of housing units needed in the downtown. This is the national model for central business districts, taps into the existing infrastructure, and does not eliminate open space. This type of construction also provides opportunities for entry level buyers, single or retired people who don't want a yard or house to maintain and who want to live where they can walk to shop or eat. The Downtown Association wants to advance as many housing units in the downtown as they can, and do not believe that they will remain vacant. He stated that the Greenbelt Alliance supports this type of infill development, and would support a ballot measure to exempt the downtown from Measure C restrictions. He asked that the Committee consider this as they deliberate this issue.

No further comments being offered, the public comment was closed.

Council Member Tate asked Interim City Attorney Siegel if the use of the word "advance" is allowed under the terms of Measure C.

Interim City Attorney Siegel responded that the intent is allowed, and that the term "set aside" could be used instead of the word "advance". Though the word "advance" may not be the best word choice, the underlying issue of bringing forward allocations originally set for 2009-10 is acceptable.

Council Member Sellers stated his agreement with most of the speakers this evening. He agrees that it is not fair to stop in the middle of a process where people are already involved, and stated that existing

projects that are already partially developed need to be able to complete their developments. He also agrees that there are good reasons for allowing development in downtown to move forward as quickly as possible. Such issues as no infrastructure costs, creation of infill, and the positive impact this would have on development of a thriving commercial district. He wants to front load residential development all at once in order to sustain the enthusiasm, and complete these projects quickly to prevent construction in downtown dragging on for years because of the negative impact that would have on the downtown. The Council has been committed to revitalization of the downtown, and we need to be ready for when the courthouse is completed. This recommendation might be a way to accomplish this without the need to amend Measure C.

He believes that a ballot measure is the right thing to do, and appreciates the opportunity for the subcommittee to study and make recommendations for the Council to consider. He is confident that the voters would not want to support sprawl, and would want to develop the downtown. He stated his preference is to adopt the staff recommended actions.

Mayor Kennedy agreed, but asked that the word “advance” be change to “set aside” in the staff recommendation. He agreed with Mr. Lyle that the awarding of “all passing projects” removes flexibility, and would prefer not to say “all passing projects”.

Interim City Attorney Siegel reminded the Council that in the staff recommendation, the allocations can only be awarded if the Planning Commission makes specific findings as to the phasing necessity to bring allocations forward to finish the project. The wording gives the Planning Commission the flexibility to determine if that is needed on a project by project basis.

Council Member Carr asked for direction on how to instruct the Planning Commission to consider projects that have the ability to get started early and complete the project to avoid awarding allocations to projects that do not get started when they want them to.

Mr. Siegel responded that the Planning Commission will determine if they are going to use the allocations, and if not, then there is no need to advance the allocation.

Ms. Molloy-Previsich stated that a more accurate term would be “allocating” rather than “advancing” from the 3rd year allotment. She also said that these types of project need to know that they are going to get their allocations before they can get their funding. The Planning Commission will need to interview and determine each on a case by case basis. It might also be feasible to require a completion date or put a cap on the allotments to be awarded, but at this time it is difficult to know since they are at the beginning.

Council Member Tate stated that the Council wants to get the downtown to a critical mass and we need to figure out how to do that. Measure C was designed to provide a predictable rate of growth, but now we are saying that we want to make downtown happen right away. He agreed with Council Member Carr that developers need to be committed to finishing their projects in a timely manner, starting early and going all the way to the end rather than waiting to see if other projects are successful before they finish theirs. Measure C has built in controls that allow taking away of allocations if a project does not

get built, and we need to emphasize that strongly. He is reticent to say “advance”, but if it can create the needed critical mass in downtown, then that is something we can make happen.

Council Member Carr stated that though we have controls, they have not often been enforced. He wants the Planning Commission to explore all those issues with the developers so it is known from the beginning if there are likely to be delays, and we can give support to those who will not have delays. He believes the early start is the key, but the completion date is what is really critical to avoid having downtown areas under construction for years on end. We need to make sure the construction times are concentrated and shortened.

Mayor Kennedy asked if there is a way to preserve enough units for ongoing projects. Is there a way to add language while we are looking at the process of amending Measure C to allow us to set aside 108 allocations so that should Measure C not be amended, we can come back and make those allocations at that time.

Council Member Sellers stated that the Planning Commission does have flexibility as stated in the staff recommendation. As a member of the Subcommittee, he feels that this should be included in their considerations. This is crucial for those who have projects underway and lets everyone know the consequences.

Mayor Kennedy reopened the public hearing for rebuttal.

Mr. Lyle stated he wanted to respond to the comments made by Council. He would like to see a way to help projects get started earlier in the year. We need to find some way to get a commitment that they will start early in that year. Giving someone who is able to commit to this an advantage provides an incentive for an early start. There needs to be some teeth in the enforcement.

Dick Oliver asked the Council not to forget ongoing projects like Mission Ranch. Please allow developers an opportunity to plan. There has been discussion of postponing the competition of October 2006 to the next year and using those 11 units in the downtown. He has no objection to postponement, but developers need to know now so they can know whether to plan for competition in October 2006 or not.

Mayor Kennedy closed the rebuttal.

Council Member Sellers made a motion to approve the staff recommended actions, with the amendment of changing the word “advance” to “allocate”.

Mayor Kennedy stated his support of the motion, with the understanding that there is to be flexibility in adjusting the allocations as needed, and that not all 193 allocations have to be awarded.

Council Member Carr seconded the motion, with the added amendment of having the Planning Commission look at incentives to start projects as early as possible and to put teeth into the enforcement of this.

Mr. Siegel noted that Mr. Oliver's concern was addressed in the first part of the recommendation under the 3 Micro, 4 Small, and 11 Open Market projects.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Determined** that it is necessary to Shift 18 Available Allocations Under 2008/09 (3 Micro, 4 Small Project, And 11 Open Market) to either the 2007/08 or 2008/09 Downtown Open Market Competition; and to Allocate Additional Allocations From 2009/10 in order to Allow for Completion of Projects that Receive Passing Scores in the Affordable, Small Vertical Mixed Use, and Affordable Competitions; and **Directed** the Planning Commission to Consider the Following as Available for Allocation from 2009/10:*

- a) **AFFORDABLE:** Allocate up to 34 Allocations from 2009/10, to Either 2007/08 or 2008/09 as needed to Complete the Affordable Housing Projects Which Attain a Passing Score.*
- b) **SMALL VERTICAL MIXED USE:** Allocate up to 4 Allocations from 2009/10, to Either 2007/08 or 2008/09 as needed to Complete the Vertical Mixed Use Projects Which Attain a Passing Score.*
- c) **DOWNTOWN OPEN MARKET:** Allocate from 108 to 193 Allocations from 2009/10, to Either 2007/08 or 2008/09 as needed to Complete the Downtown Projects Which Attain a Passing Score; with the understanding that the Planning Commission has the flexibility to determine that not all 193 allocations must be awarded, but only as needed.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** The Planning Commission, if it makes these Allocations, to Make Specific Findings for Each Project Regarding the Infeasibility of Phasing and Necessity to make the Allocations in Order to Feasibly Complete Projects.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** The Community and Economic Development Council Subcommittee to Return to the City Council by March 1, 2006 with Information and a Recommendation Regarding a Possible Ballot Measure to Modify Measure C Provisions Applicable to Downtown and Vertical Mixed Use Projects, to Allow for These Types of Projects to be Initiated and Completed on an Expedited Basis, and to Allow for "Restoration" of any Allocations for these Competitions to be Restored as Available for Allocation for 2009/10.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** the Planning Commission to look at incentives to start projects as early as possible with strong consequences to provide a means of enforcement.*

17. CITY OF SAN JOSE'S NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE MONTEREY HIGHWAY SOCCER COMPLEX

Special Assistant to the City Manager Spier presented the staff report as provided in the agenda packet, noting that this complex is proposed on the same site as the previously proposed Sobrato Soccer Complex that the non-profit San Jose group had been working on before they decided to withdraw from that project. She also noted that the deadline for submitting our comments to San Jose is tomorrow. The possible actions are: Forward comments to City of San Jose, or Not comment. In addition, staff is recommending that a Sub-committee be given the assignment to monitor the development of this project. If the decision is made to send no comments at this time, there will be another opportunity to comment when the EIR is presented. City of San Jose would like to hear if there are issues that they need to take a look at.

Mayor Kennedy opened the public comment.

No comments being offered, the public comment was closed.

Council Member Sellers thanked the staff for bringing this to the attention of the City Council. He noted that this project appears to be designed to minimize the value of the complex to Morgan Hill and to maximize the prospects that it would only be used by the citizens of San Jose. He stated that he feels it is imperative that we look at the front end, and point out to San Jose that they should expand the scope of the EIR so that it does allow for the review of 16 fields, even though it may end up as a project of only 8 fields. At this point, we don't know that will be the case, and he stated his concern that San Jose will use this as an excuse to say it would have been nice to have 16 fields, but we only studied 8.

Council Member Sellers made the motion that we send comments to San Jose, and assign the Public Safety and Community Services Committee study this as a recreation project.

Council Member Tate seconded with a question as to whether there is a center driveway in the plan.

Ms. Spier stated that all she is able to do at this time is refer to the previous project, which did not have a center driveway. There may be one, but we would have to ask them.

City Manager Tewes noted that there is a current fire road that has previously been used as a construction access road, and though it is not shown clearly, they may be planning to use it to provide access to the site off Monterey Road.

Ms. Spier stated she would add that question to the list.

Mayor Kennedy suggested an amendment to the motion, to make a stronger statement by changing the staff recommended statements into action statements by adding language that makes the message we want to convey stronger. For example, "The City of Morgan Hill strongly recommends that the City of San Jose consider alternative programming that would allow tournament play for 16 fields."

Council Member Sellers stated that he would prefer to have the Subcommittee define the comments, but since they are due tomorrow time will not allow this, so he would appreciate it if all the Council would provide input. He stated he concurs that they need to be given strong statements that leave very little wiggle room.

Council Member Tate stated that he felt we could just give staff that direction.

Council Member Carr reminded that this is just the Notice of Preparation and not the EIR. When the EIR comes out we can provide strong language. We just want to make sure they are examining the full scope of things we think they should examine, such as 16 fields rather than 8 and how schools will be affected. He feels the list of 5 staff provided is fine, and when we want to insert more policy then comments on the draft EIR is a good place to do that.

Mayor Kennedy stated that we want to make sure that the EIR does not limit what can happen on the site. The EIR needs to evaluate whatever will have the most potential impacts.

Council Member Grzan asked why they are building this soccer field so far from the majority of their residents, creating a situation where their citizens will have to travel quite a distance to make use of it.

Mayor Kennedy reported that in a discussion with San Jose Council Member Forrest Williams, he was told that they were not able to move forward with the project closer to San Jose, and have decided to move forward with this project on the south end of his district.

Council Member Sellers noted that this could be a positive for Morgan Hill in that it will bring people into the area. He also stated that hopefully it will come out in the EIR that this is adjacent to one of our high schools, and should be incorporated more than it is, and hopefully they will do a better job of negotiating to meet a broader community need.

Council Member Grzan stated his concern that since it is near the high school that the children that come for soccer will filter into the high school grounds to practice, and the school will be impacted by this. Also there will probably be some parking impacts as well.

Mayor Kennedy noted that we have a motion on the floor asking staff to forward comments to the City of San Jose with the appropriate wording as recommended.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** Staff to Forward Comments to the City of San Jose appropriately worded to incorporate the comments made by the Council members.*

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Assigned** the Public Safety and Community Services Committee the Responsibility for Monitoring this Project.*

Council Member Sellers asked that staff give the Council as much advance notice as possible when the EIR is to be approved so they can weigh in with the San Jose Council Members. He particularly wants the Subcommittee to be kept informed.

Ms. Molloy-Previsich stated that she will keep the Council and the members of the Public Safety and Community Services Committee apprised of the various stages of the process for the EIR.

18. SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND REDEVELOPMENT AGENCY VICE-CHAIR (Continued from 11/30/05)

Mayor Kennedy noted that the policy as contained in the staff report favors any Council Member who has not yet served as Mayor Pro Tempore. He noted that Council Member Grzan has not yet served in this position, and has been on the Council now for one full year. Therefore, he proposes to nominate Council Member Grzan.

Council Member Grzan responded that he is honored by the nomination, and appreciates the light load the other Council Members have graciously allowed him to carry for the last year. His work situation has made it difficult for him to put in as much time as he would have liked, but now that situation is being resolved and he feels confident that, should he be selected to serve as Mayor Pro Tempore, he is prepared to take on this responsibility and will be able to provide the necessary time and effort to serve the residents and the members of this Council the best that he possibly can.

Mayor Kennedy asked if there were any other nominations.

Council Member Tate stated his intent to nominate Council Member Carr, since he and Council Member Grzan were fairly equal in terms of the amount of time that they have not served; and that this would have given Mark another year to learn the ropes. This would provide maximum experience before stepping into the role of Mayor Pro Tempore. If the Mayor feels Mark is ready to take this on, he will support that.

Council Member Sellers commented that he appreciates that this has been a difficult year for Council Member Grzan, and noted that he should be prepared to anticipate the load that he will be taking on, but if he is willing, then he thinks it is his turn.

Council Member Carr stated that he appreciated Council Member Grzan's comments, which showed that he has given some thought to what this position will entail. He noted this will be an important year because of the Community Conversation process, and it will take all the members of the Council as a leadership team to meet the challenges of the coming year. He looks forward to working with his colleagues to move us forward through this year.

Action: *After nomination by Mayor Kennedy, the City Council unanimously (5-0) **Selected** Council/Agency Member Mark Grzan to serve as Mayor Pro Tempore/Vice-Chair per City Council Policy CP 99-01.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 8:45 P.M.

MINUTES RECORDED AND PREPARED BY:

MOIRA MALONE, DEPUTY CITY CLERK/DEPUTY AGENCY SECRETARY